Franchise Tax Board

ANALYSIS OF AMENDED BILL

Author: Corbett | Analyst: Jeff Garnier | Bill Number: AB 1122

Related Bills: See Legislative History | Telephone: 845-5322 | Amended Date: April 3, 18 & 25, 2002

Attorney: Patrick Kusiak | Sponsor:

SUBJECT: Conformity Act of 2002

____	DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended ______________________.
X	AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
____	AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended ______________________.
____	FURTHER AMENDMENTS NECESSARY.
____	DEPARTMENT POSITION CHANGED TO ______________________.
X	REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED March 20, 2002, STILL APPLIES.
X	OTHER - See comments below.

SUMMARY

This bill would conform state law to federal treatment of:

1. Pension plan, Coverdell Education Saving Account, and Qualified Tuition Plan changes contained in the federal Economic Growth and Tax Relief Reconciliation Act of 2001, (P.L. 107-16), (EGTRRA). (Explained in the February 13, 2002 analysis.)
2. Contributions of publicly traded stock to private foundations. (See explanation beginning on page 3.)
3. Gifts of appreciated property for alternative minimum tax purposes. (Explained in the February 13, 2002 analysis.)
4. Federal S corporation election, requiring corporations with a valid S election for federal law to be an S corporation for California law. (See explanation on page 5.)
5. Discharge of indebtedness of an S corporation. (See explanation beginning on page 7.)
6. Deduction of club dues. (See explanation on page 9.)
7. Deduction of excess compensation for officers. (See explanation on page 10)
8. Disallowance of lobbying and political expenses. (See explanation beginning on page 13.)
9. Estimated tax payments of individuals. (Explained in the February 13, 2002 analysis.)
10. Numerous federal changes made between January 1, 1998, and January 1, 2001. (Explained in the March 20, 2002 analysis.)

Board Position:			Department Director	Date
X S	NA	NP	Gerald H. Goldberg	5/2/02
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N	OUA	PENDING		

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SUMMARY OF AMENDMENTS

The April 3, 2002, amendments removed the March 20, 2002, amendments made to this bill and restored it to its February 13, 2002, version. The April 3, 2002, amendments also made the bill contingent upon the passage of SB 657 (Scott).

The April 18, 2002, amendments restored the bill to its March 20, 2002, version with the following changes:

- Removed the child and dependent care credit conformity provision.
- Added the contributions of publicly traded stock to private foundation provision.
- Added the discharge of indebtedness of an S corporation provision.
- Added the disallowance of excess officer compensation expense provision.
- Added the disallowance of lobbying and political expenses provision.
- Changed the disallowance of club dues expense provision by extending the denial of any deduction to club dues expenses in 2002.
- Made the bill contingent upon the passage of SB 657 (Scott).

The April 25, 2002, amendments made two technical amendments clarifying the operative dates of the discharge of indebtedness of an S corporation and the contributions of computers by corporations provisions of this bill.

The remainder of the analysis of the bill as amended March 20, 2002, still applies.

EFFECTIVE/OPERATIVE DATE

This bill is a tax levy. Thus, it would be effective immediately, and unless otherwise specified, it would apply to taxable years beginning on or after January 1, 2002. The provisions of this bill that conform to portions of EGTRRA apply to taxable years beginning before January 1, 2011.

This bill would become operative only if SB 657 (Scott) is chaptered.

REVENUE TABLE

Estimated Conformity Impact of AB 1122 As Amended April 25, 2002 Fiscal Years (In Millions)			
Provision	2002-3	2003-4	2004-5
Coverdell Education Savings Accounts	Negligible loss	Negligible loss	Negligible loss
Qualified Tuition Plans	Minor loss	-$1	-$1
IRA Provisions	-$9	-$9	-$13
Pension Provisions	-$35	-$38	-$45
Donations of Publicly Traded Stock to Private Foundations	-$5	-$5	-$4
AMT on Charitable Contributions of Appreciated Property	-$12	-$10	-$10
Mandated S vs. C Election	$10	$10	$10
Discharge of S Corporation Indebtedness	$2	$3	$3
Club Dues	$12	$9	$10
Executive Compensation	$4	$4	$5
Lobbying Expenses	$7	$7	$7
Federal Estimate Payment Requirements	$210	$10	$10
Conformity 1998-2000	$5	$20	$18.5
Totals	$189	$0	-$9.5

ANALYSIS

1. PENSION PLAN, COVERDELL EDUCATION SAVING ACCOUNT, AND QUALIFIED TUITION PLAN CHANGES CONTAINED IN EGTRRA

Please see the department's analysis of the bill as amended January 23, 2002, and February 13, 2002.

2. CONTRIBUTIONS OF PUBLICLY TRADED STOCK TO PRIVATE FOUNDATIONS

Existing state and federal laws allow deductions from income for charitable contributions. Individuals generally can deduct amounts up to 30% of their adjusted gross income for contributions to qualified charities. Corporations can deduct amounts up to 10% of their taxable income.

Under federal law, taxpayers generally are allowed to deduct the fair market value (FMV) of property, including certain appreciated property, contributed to a charitable organization, other than private foundations. However, in the case of a charitable contribution of inventory, other ordinary income property, or short-term capital gain property, the amount of the deduction is limited to the taxpayer's basis in the property.

The California Personal Income Tax Law (PITL) conforms to federal law for gifts of all types of property. Under the Corporation Tax Law (CTL), a taxpayer's charitable contribution deduction is limited to the taxpayer's adjusted basis in the property, regardless of the type of property donated.

Under federal and state laws, the amount of the charitable contribution deduction for gifts of appreciated property to private foundations is generally limited to the taxpayer's basis in the property. Under federal law since 1984**,** a gift of qualified appreciated stock to a private foundation is not limited to the taxpayer's basis in the stock, but instead the entire FMV of the stock is deductible as a contribution. Qualified appreciated stock is defined as stock for which market quotations are readily available on an established securities market (the stock must be publicly traded). When the federal provision for contributions of publicly traded stock to private foundations was enacted in 1984, it contained a sunset date of December 31, 1994. The federal provision was thereafter extended in increments of 12 to 18 months. In 1998, the special provision for the donation of publicly traded stock to private foundations became permanent under federal law.

CALIFORNIA LAW

California law, under the PITL, conformed to the federal rule regarding the deduction for a contribution of publicly traded stock to private foundations until the federal law sunset on December 31, 1994. California has not conformed to any of the subsequent federal law extensions of that sunset date or the 1998 federal change making the special rule permanent. Therefore, under current California law, the amount of any charitable contribution to private foundations is generally limited to the taxpayer's basis in the property being donated.

THIS BILL

This bill would conform the PITL to existing federal law by allowing the amount of a charitable contribution of publicly traded stock to a private foundation to be the FMV of the stock. This bill does not conform to this provision under the CTL.

LEGISLATIVE HISTORY

SB 1300 (Calderon, 1997-98) and SB 1760 (Speier, 1999-2000) would have conformed the Personal Income Tax Law (PITL) to the federal treatment of publicly traded stock to private foundations. The income tax provisions in SB 1300 were amended out and SB 1760 failed passage from the Senate Appropriation Committee. SB 49 (Speier, 2001) would have conformed to federal treatment under both the PITL and CTL. SB 49 failed passage from the Senate Revenue and Taxation Committee.

This provision is also contained in SB 657 (Scott, 2002). SB 657 is in Assembly Third Reading.

OTHER STATES' INFORMATION

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York.* These states were selected due to their similarities to California's economy, business entity types, and tax laws. The review of these states' tax laws indicates that they conform to federal law as it relates to the contribution of publicly traded stock to a private foundation.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

Estimated Conformity Impact of AB 1122 As Amended April 25, 2002			
Fiscal Years			
(In Millions)			
Provision	2002-3	2003-4	2004-5
Donations of Publicly Traded Stock to Private Foundations	-$5	-$5	-$4

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Revenue Discussion:

Estimates for this proposal are based on original federal projections, adjusted to account for current economic trends.

3. CONFORMITY TO THE TREATMENT OF GIFTS OF APPRECIATED PROPERTY

Please see the department's analysis of the bill as amended January 23, 2002, and February 13, 2002.

4. REQUIRE CORPORATIONS WITH VALID FEDERAL S CORPORATION ELECTION TO BE AN S CORPORATION FOR CALIFORNIA LAW

BACKGROUND

For income years beginning on or after January 1, 1987, California conformed to the federal S corporation provisions, with specified exceptions. For federal purposes, the taxable income or loss of an S corporation is taken into account by the corporation's shareholders, rather than by the entity, regardless whether such income is distributed. The shareholders of a small business corporation may elect to have the corporation be treated as an S corporation.

Under California law, in addition to the pass-through of the S corporation's income and deductions to its shareholders, an S corporation continues to be subject to the franchise tax, in an amount equal to the greater of the minimum tax or 1.5% of its net income for the taxable year. Unlike other corporations, however, an S corporation is allowed to compute depreciation under the modified cost recovery system (MACRS) and is subject to the same at-risk and passive activity loss rules as an individual. An S corporation is not subject to the alternative minimum tax. Credits are allowed against this corporate level tax in an amount equal to one-third of the amount otherwise allowable.

A corporation that is an S corporation for California purposes is not allowed to be included in a combined report of a unitary group.

<u>CALIFORNIA LAW</u>

A taxpayer with a valid S corporation election for federal purposes is deemed to be an S corporation for California purposes, unless the taxpayer affirmatively elects to be a C corporation.

<u>THIS BILL</u>

Effective for taxable beginning on or after January 1, 2002, this would require all taxpayers with a valid S corporation election for federal purposes to be an S corporation for state purposes, thereby eliminating the election available under current law. The effective date of the S corporation election for those taxpayers required to be an S corporation under the provisions of this bill would be January 1, 2002, for California purposes.

This bill would provide transitional relief regarding estimated tax payments. A California C corporation that becomes an S corporation, due to the provisions of this bill, may request to have part (the amount in excess of the S corporation's expected tax liability) of the corporation's estimated tax payment transferred to the principal income tax accounts of its shareholders.

<u>LEGISLATIVE HISTORY</u>

This provision is also contained in SB 657 (Scott, 2002). SB 657 is in Assembly Third Reading.

<u>OTHER STATES INFORMATION</u>

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York.* These states were selected due to their similarities to California's economy, business entity types, and tax laws.

Florida, Illinois, *Massachusetts*, and *Minnesota* do not allow separate S corporation elections.

Michigan treats S corporations as any other business entity for purposes of imposing the "single business tax," which is Michigan's version of income tax. Therefore, Michigan's tax law is not comparable to California tax law as it relates to S corporation elections.

New York allows a separate election for S corporation status.

A cursory review was done of all other states. In addition to New York, only Arkansas and Georgia allow separate S corporation elections. Various information readily available to the public was reviewed including individual state tax forms and websites.

FISCAL IMPACT

This provision of the bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

Estimated Conformity Impact of AB 1122 As Amended 4-25-02			
Fiscal Years			
(In Millions)			
Provision	2002-3	2003-4	2004-5
Mandated S vs. C Election	$10	$10	$10

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Revenue Discussion

The estimate is an order of magnitude impact based on the collective judgment of legal, audit, and research staff.

5. DISCHARGE OF INDEBTEDNESS OF AN S CORPORATION

Background

In general, an S corporation is not subject to the corporate income tax on its items of income and loss. Instead, an S corporation passes through its items of income and loss to its shareholders. Each shareholder takes into account separately his or her pro rata share of these items on their individual income tax returns. To prevent double taxation of these items, each shareholder's basis in the stock of the S corporation is increased by the amount included in income (including tax-exempt income) and is decreased by the amount of any losses (including nondeductible losses) taken into account. A shareholder may deduct losses only to the extent of a shareholder's basis in his or her stock in the S corporation plus the shareholder's adjusted basis in any indebtedness of the corporation to the shareholder. Any loss that is disallowed by reason of lack of basis is "suspended" at the corporate level and is carried forward and allowed in any subsequent year in which the shareholder has adequate basis in the stock or debt.

In general, gross income includes income from the discharge of indebtedness. However, income from the discharge of indebtedness of a taxpayer in a bankruptcy case or when the taxpayer is insolvent (to the extent of the insolvency) is excluded from income. The taxpayer is required to reduce tax attributes, such as net operating losses, certain carryovers, and basis in assets, to the extent of the excluded income. In the case of an S corporation, the eligibility for the exclusion and the attribute reduction are applied at the corporate level. For this purpose, a shareholder's suspended loss is treated as a tax attribute that is reduced. Thus, if the S corporation is in bankruptcy or is insolvent, any income from the discharge of indebtedness by a creditor of the S corporation is excluded from the corporation's income, and the S corporation reduces its tax attributes (including any suspended losses).

To illustrate these rules, assume that a sole shareholder of an S corporation has zero basis in its stock of the corporation. The S corporation borrows $100 from a third party and loses the entire $100. Because the shareholder has no basis in its stock, the $100 loss is "suspended" at the corporate level. If the $100 debt is forgiven when the corporation is in bankruptcy or is insolvent, the $100 income from the discharge of indebtedness is excluded from income, and the $100 "suspended" loss should be eliminated in order to achieve a tax result that is consistent with the economics of the transactions in that the shareholder has no economic gain or loss from these transactions.

Notwithstanding the economics of the overall transaction, the United States Supreme Court ruled in the case of *Gitlitz v. Commissioner* that, under prior federal law and present state law, income from the discharge of indebtedness of an S corporation that is excluded from income is treated as an item of income which increases the basis of a shareholder's stock in the S corporation and allows the suspended corporate loss to pass thru to a shareholder. Thus, under the decision, an S corporation shareholder is allowed to deduct a loss for tax purposes that it did not economically incur.

Explanation of the Job Creation Act of 2002 Provision

The Job Creation Act of 2002 provided that income from the discharge of indebtedness of an S corporation that is excluded from the S corporation's income is not taken into account as an item of income by any shareholder and thus does not increase the basis of any shareholder's stock in the corporation. The federal effective date of the provision generally applies to discharges of indebtedness after October 11, 2001. The provision does not apply to any discharge of indebtedness before March 1, 2002, pursuant to a plan of reorganization filed with a bankruptcy court on or before October 11, 2001.

CALIFORNIA LAW

California law is in conformity with federal law as it relates to the discharge of indebtedness of an S corporation as it read January 1, 1998. California has not previously conformed to the Job Creation Act of 2002 provision that affects discharge of indebtedness of an S corporation.

THIS BILL

This bill would conform to the change made in the Job Creation Act of 2002 with respect to the discharge of indebtedness of an S corporation as explained above. This provision would apply for California purposes to discharges of indebtedness occurring after December 31, 2001, in taxable years ending after that date. The provision would not apply to any discharge of indebtedness before March 1, 2002, pursuant to a plan of reorganization filed with a bankruptcy court on or before October 11, 2001.

LEGISLATIVE HISTORY

This provision is also contained in SB 657 (Scott, 2002). SB 657 is waiting for the Governor's action.

OTHER STATES' INFORMATION

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York.* These states were selected due to their similarities to California's economy, business entity types, and tax laws. The provision was enacted into federal law on March 9, 2002, therefore; only those states that automatically conform to the IRC (*Illinois, Michigan, and New York)* are in conformity with this provision.

FISCAL IMPACT

This portion of the bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

Estimated Conformity Impact of AB 1122 April 25, 2002			
Fiscal Years			
(In Millions)			
Provision	2002-3	2003-4	2004-5
Sub S discharge of indebtedness	$2	$3	$3

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Revenue Discussion

Estimates for this proposal are based on original federal projections in the Estimated Revenue Effects of the "Job Creation and Worker Assistance Act of 2002" reflecting a January 1, 2002, effective date for California tax purposes. The revenue implication in not applying the October 11, 2001, federal starting date is minor, less than $500,000.

6. CONFORMITY TO THE DENIAL OF CLUB MEMBERSHIP DUES DEDUCTION.

Please see the department's analysis dated March 20, 2002, for a complete analysis of this provision. The prior version of the bill would have disallowed 75% of club dues as a deduction for the 2002 taxable year and 100% for all subsequent years.

<u>THIS BILL</u>

For taxable years beginning in 2002 and thereafter, this bill would not allow any deduction for club dues. Thus, beginning in the 2002 taxable year this bill would conform California law to the Revenue Reconciliation Act of 1993 (RRA of 1993) change denying the deduction for club dues.

<u>FISCAL IMPACT</u>

This portion of the bill would not significantly impact the department's costs.

<u>ECONOMIC IMPACT</u>

<u>Revenue Estimate</u>

Estimated Conformity Impact of AB 1122 As Amended April 25, 2002			
Fiscal Years			
(In Millions)			
Provision	2002-3	2003-4	2004-5
Club Dues	$12	$9	$10

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

<u>Revenue Discussion</u>

The projected impact of this proposal is based on full conformity, i.e., no deduction for club dues, commencing with taxable years beginning on or after January 1, 2002. The estimate is based on a proration of federal amounts.

7. DEDUCTION OF EXCESS COMPENSATION FOR OFFICERS

Generally, for federal and state purposes, an employer is allowed a deduction for reasonable salaries and other compensation. Whether compensation is reasonable is determined on a case-by-case basis. The reasonableness standard has been used primarily to limit payments by closely-held companies where non-deductible dividends may be disguised as deductible compensation.

In 1993, federal law capped the maximum amount of salaries paid to certain executives that a publicly held corporation could deduct. Under the RRA of 1993, for purposes of the regular income tax and the alternative minimum tax, the otherwise allowable deduction for compensation paid or accrued with respect to a covered employee (defined below) of a publicly held corporation is limited to no more than $1 million per year.

Definition of publicly held corporation

For purposes of this provision, a corporation is publicly held if it is required to register under the Securities Exchange Act of 1934. In general, the Securities Exchange Act requires a corporation to register if: (1) the corporation's stock is listed on a national securities exchange or (2) the corporation has $5 million or more of assets and 500 or more shareholders. A corporation is not considered publicly held under the provision if registration of its equity securities is voluntary.

Covered employees

For purposes of this provision, a covered employee is defined by reference to the Securities and Exchange Commission (SEC) rules governing disclosure of executive compensation. A person is a covered employee if (1) the employee is the chief executive officer of the corporation (or an individual acting in such capacity) as of the close of the taxable year or (2) the employee's total compensation is required to be reported for the taxable year under the Securities Exchange Act of 1934 because the employee is one of the four highest compensated officers for the taxable year (other than the chief executive officer).

Compensation subject to the deduction limitation

In general

Unless specifically excluded, the deduction limitation applies to all remuneration for services, including cash and the cash value of all remuneration (including benefits) paid in a medium other than cash. If an individual is a covered employee for a taxable year, the deduction limitation applies to all compensation not explicitly excluded from the deduction limitation, regardless of whether the compensation is for services as a covered employee and regardless of when the compensation was earned. The $1 million cap is reduced by excess parachute payments (as defined in IRC Sec. 280G) that are not deductible by the corporation.

The deduction limitation applies when the deduction would otherwise be taken. Thus, for example, in the case of a nonqualified stock option, the deduction is normally taken in the year the option is exercised, even though the option was granted with respect to services performed in a prior year.

Certain types of compensation are not subject to the deduction limit and are not taken into account in determining whether other compensation exceeds $1 million. The following types of compensation are not taken into account: (1) remuneration payable on a commission basis; (2) remuneration payable solely on account of the attainment of one or more performance goals if certain outside director and shareholder approval requirements are met; (3) payments to a tax-qualified retirement plan (including salary reduction contributions); (4) amounts that are excludable from the executive's gross income (such as employer provided health benefits and miscellaneous fringe benefits (Sec. 132)); and (5) any remuneration payable under a written binding contract which was in effect on February 17, 1993, and all times thereafter before such remuneration was paid and which was not modified thereafter in any material respect before such remuneration was paid.

Commissions

In order to qualify for the exception for compensation paid in the form of commissions, the commission must be payable solely on account of income generated directly by the individual performance of the executive receiving such compensation. Thus, for example, compensation that equals a percentage of sales made by the executive qualifies for the exception. Remuneration does not fail to be attributable directly to the executive merely because the executive utilizes support services, such as secretarial or research services, in generating the income. However, if compensation is paid on account of broader performance standards, such as income produced by a business unit of the corporation, the compensation would not qualify for the exception because it is not paid with regard to income that is directly attributable to the individual executive.

Other performance-based compensation

In general. ----Compensation qualifies for the exception for performance-based compensation only if (1) it is paid solely on account of the attainment of one or more performance goals, (2) the performance goals are established by a compensation committee consisting solely of two or more outside directors, (3) the material terms under which the compensation is to be paid, including the performance goals, are disclosed to and approved by the shareholders in a separate vote prior to payment, and (4) prior to payment, the compensation committee certifies that the performance goals and any other material terms were in fact satisfied. Treasury regulations contain detail rules and examples performance-based compensation that qualifies for the exception,

Compensation payable under a written binding contract. -- Remuneration payable under a written binding contract which was in effect on February 17, 1993, and at all times thereafter is not subject to the deduction limitation. The fact that a plan was in existence on February 17, 1993, is not by itself sufficient to qualify the plan for the exception for binding written contracts. This exception ceases to apply if the contract was materially modified or renewed.

THIS BILL

This bill would conform state law to federal law and deny the deduction of excess compensation for officers of a publicly-held company. The conformity is accomplished by amending the Corporation Tax Law to reference the Internal Revenue Code, and, therefore, compensation paid under a binding written contract in effect on or before February 17, 1993, will not be subject to this limitation.

OTHER STATES' INFORMATION

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York.* These states were selected due to their similarities to California's economy, business entity types, and tax laws. The review of these states' tax laws indicates that they do not permit the deduction of compensation to certain executives in excess of $1 million.

LEGISLATIVE HISTORY

This provision of the bill is also in SB 657 (Scott, 2002). SB 657 is in the Assembly Third Reading. This provision has not been introduced into any other bill since 1995.

FISCAL IMPACT

This portion of the bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

Estimated Conformity Impact of AB 1122			
As Amended April 25, 2002			
Fiscal Years			
(In Millions)			
Provision	2002-3	2003-4	2004-5
Executive Compensation	$4	$4	$5

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Estimates for this proposal are based on original federal projections in the Revenue Reconciliation Act of 1993, adjusted to account for current business trends.

8. DISALLOW LOBBYING AND POLITICAL EXPENSES

Current state and federal laws generally allow a taxpayer engaged in a trade or business to deduct all expenses that are considered ordinary and necessary in conducting that trade or business.

Under current state law, the costs of representing a taxpayer's views on matters of direct interest to his or her business to individual legislators, and the costs of communicating with an organization regarding legislation, are explicitly allowed as deductible business expenses. The portion of dues relating to lobbying activities performed by an organization also may be deducted. However, a taxpayer is prohibited from deducting any expenses incurred to influence the vote of the public or to participate in political campaigns. Under current federal law, none of these costs are deductible.

THIS BILL

This bill would conform state law to federal law. This bill would specify that deductible business expenses would not include costs incurred by a taxpayer to lobby the state Legislature, Congress, and certain executive branch officials.

LEGISLATIVE HISTORY

SB 964 (Hayden, 1993/1994) would have denied a deduction for certain lobbying and political expenses, but failed passage from the Senate Revenue and Taxation Committee.

AB 72 (Klehs and Bustamante, Stats. 1994, Ch. 851) would have denied a deduction for certain lobbying and political expenses, but the language regarding that deduction was eliminated from the bill in the January 14, 1994, amendment.

AB 1865 (Isenberg, et al., 1993/1994) would have denied a deduction for certain lobbying and political expenses, but failed passage from the Assembly Revenue and Taxation Committee.

SB 657 (Scott, 2002) contains the same provision as this bill. SB 657 is waiting for the Governor's action.

SB 1724 (Speier, 2002) contains the same provision as this bill. SB 1724 is in the Senate Revenue and Taxation Committee.

OTHER STATES' INFORMATION

Florida, Illinois, Massachusetts, Michigan, Minnesota, and *New York* laws do not currently appear to permit the deduction for certain lobbying and political expenses. The laws of these states were reviewed because their tax laws are similar to California's income tax laws.

FISCAL IMPACT

This portion of the bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

Based on the data and assumptions below, order of magnitude revenue effects are estimated as follows:

Estimated Revenue Impact of AB 1122 As Amended April 25, 2002 Fiscal Years (In Millions)			
	2002/2003	2003/2004	2004/2005
Lobbying Expense	$7	$7	$7

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Revenue Discussion

This revenue estimate is based on the Joint Committee of Taxation estimate made for the same provision in the federal Revenue Reconciliation Act of 1993, prorated for California purposes and grown to 2002 and beyond.

9. CONFORMITY TO FEDERAL ESTIMATED PAYMENT REQUIREMENTS

Please see the department's analysis of the bill as amended January 23, 2002, and February 13, 2002.

10. CONFORMITY TO THE 1998, 1999, AND 2000 FEDERAL CHANGES

Please see the department's analysis of the bill as amended March 20, 2002.

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